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## DECLARATION OF EASEMENTS AND COVENANTS

THIS DECLARATION OF EASEMENTS AND COVENANTS (“Declaration”) is made as of \_\_\_\_\_, 2024 (“Effective Date”) by 1905 Iglehart LLC, a Minnesota limited liability company (the “Declarant”).

### RECITALS:

A. Declarant is the fee owner of certain real property situated in Saint Paul, Minnesota, which real property is legally described on Exhibit A attached hereto (the “Property”) and consists of five (5) parcels referred to herein as “Lot 1,” “Lot 2,” “Lot 3,” “Lot 4,” and “Lot 5” and, collectively, the “Parcels,” and as depicted, along with the Easements (as later defined) granted herein, on the attached Exhibit B.

B. Declarant desires to create certain easements over, under and across certain portions of the Parcels for the benefits and purposes set forth herein.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, Declarant hereby declares that from and after the Effective Date of this Declaration, the Parcels shall be subject to the following easements, covenants and restrictions, all of which run with the land, will be binding on the Parcels and all persons having or acquiring any right, title or interest in or to the Parcels, or any part thereof, and will inure to the benefit of Declarant and each Owner of fee title to any Parcel, and other person having an interest in the Parcels or any part thereof:

1. Recitals. The foregoing recitals are true and correct and form a material part of this Declaration. The Recitals are incorporated herein by reference.

2. Owners. The terms “Owner” or “Owners” mean the record fee simple owner of a Parcel.

3. Benefitted and Burdened Parcels. As used herein, the term “Benefitted Parcel” shall mean and refer to any Parcel that receives the benefit of an Easement (as later defined) over, across and / or under another Parcel. “Burdened Parcel” will mean and refer to any Parcel on which an Easement or No Build Area (as later defined) is located.

4. Utility Easements. Declarant, for itself and its successors and assigns, hereby grants and conveys the following non-exclusive utility easements (collectively, the “Utility Easements”):

(a) For the benefit of Lot 1, and over, under and across that portion of Lot 4 legally described on the attached Exhibit C (the “Lot 1 Utility Easement Area”), a perpetual, non-exclusive easement for the purpose of construction, operation, maintenance, inspection, repair and replacement of utilities serving and benefitting Lot 1 and for access thereto.

(b) For the benefit of Lot 2, and over, under and across that portion of Lot 5 legally described on the attached Exhibit C (the “Lot 2 Utility Easement Area”), a perpetual, non-exclusive easement for the purpose of construction, operation, maintenance, inspection, repair and replacement of utilities serving and benefitting Lot 2 and for access thereto.

(c) For the benefit of Lot 3, and over, under and across that portion of Lot 5 legally described on the attached Exhibit C (the “Lot 3 Utility Easement Area”), a perpetual, non-exclusive easement for the purpose of construction, operation, maintenance, inspection, repair and replacement of utilities serving and benefitting Lot 3 and for access thereto.

(d) For the benefit of Lot 4, and over, under and across those portions of Lot 1 and Lot 2 legally described on the attached Exhibit C (the “Lot 4 Utility Easement Area”) a perpetual, non-exclusive easement for the purpose of construction, operation, maintenance, inspection, repair and replacement of utilities serving and benefitting Lot 4 and for access thereto.

(e) For the benefit of Lot 5, and over, under and across the portions of Lot 2 and Lot 3 legally described on the attached Exhibit C (the “Lot 5 Utility Easement Area” and, together with the Lot 1 Utility Easement Area, the Lot 2 Utility Easement Area, the Lot 3 Utility Easement Area, and the Lot 4 Utility Easement Area, the “Utility Easement Areas”) a perpetual, non-exclusive easement for the purpose of construction, operation, maintenance, inspection, repair and replacement of utilities serving and benefitting Lot 5 and for access thereto.

5. Scope of Utility Easement Rights. Except in the case of an emergency, all access to the Utility Easement Areas will be subject to the prior consent of the Owner of a Burdened Parcel, which consent will not to be unreasonably withheld, conditioned or delayed. All Utility Easement Areas shall be used by the Owners of a Benefited Parcel in a manner that will minimize damage to the Burdened Parcel and any interference with the Burdened Parcel Owner’s use and enjoyment thereof.

6. Driveway Easement. Declarant, for itself and its successors and assigns, hereby grants and conveys, for the benefit of Lot 4, a perpetual, non-exclusive easement over and across that portion of Lot 5 legally described on the attached Exhibit D (the “Driveway Easement Area”) for the purpose of pedestrian and vehicular ingress, egress and maneuvering. No portion of the Lot 4 Driveway Easement Area may be used to park or store vehicles of any kind.

7. Maintenance of Driveway Easement Area. The Owner of Lot 5 shall be responsible for the performance of all work associated with the maintenance, repair, replacement and snow removal of Driveway Easement Area, and any improvements made therein, as may be necessary for the safe and unimpeded use of the Driveway Easement Area by the Owners of Lot 4 and Lot 5 (the “Driveway Easement Maintenance”). The removal of any accumulation of snow and/or ice in

excess of two (2) inches from the driveway located in the Driveway Easement Area is required within twenty-four (24) hours after the snow and/or ice has ceased to fall, gather or accumulate. The costs of the Driveway Easement Maintenance (the “Driveway Easement Costs”) shall be shared equally by the Owners of Lot 4 and Lot 5. The Owner of Lot 5 shall provide no less than ten (10) days’ written notice to the Owner of Lot 4 of any Driveway Easement Cost in excess of One Thousand Dollars (\$1,000.00). If the Owner of Lot 4 approves such Driveway Easement Cost, the Owner of Lot 5 shall proceed with the associated item of Driveway Easement Maintenance. If the Owner of Lot 4 objects to such Driveway Easement Maintenance within such notice period, then the Owners of Lot 4 and the Owner of Lot 5 shall reasonably cooperate to address any such objection in a manner that ensures the safe and unimpeded use of the Driveway Easement Area by each Owner. If the Owner of Lot 4 fails to respond within such notice period, the Owner of Lot 4 shall be deemed to have approved, and the Owner of Lot 5 shall proceed with, such item of Driveway Easement Maintenance.

8. Pedestrian Access Easements. Declarant, for itself and its successors and assigns, hereby grants and conveys the following non-exclusive pedestrian access easements (the “Pedestrian Access Easements”):

(a) For the benefit of Lots 2 and 3, and over and across that portion of Lot 1 legally described on the attached Exhibit E (the “Lot 1 Access Easement Area”), a perpetual, non-exclusive easement for pedestrian access, ingress and egress to and from the public right-of-way and for the ongoing maintenance, repair and replacement of a sidewalk therein, as further described in this Declaration.

(b) For the benefit of Lot 3, and over and across that portion of Lot 2 legally described on the attached Exhibit E (the “Lot 2 Access Easement Area” and, together with the Lot 1 Access Easement Area, the “Access Easement Areas”), a perpetual, non-exclusive easement for pedestrian access, ingress and egress to and from the public right-of-way and for the ongoing maintenance, repair and replacement of a sidewalk therein, as further described in this Declaration.

9. Maintenance of Access Easement Areas.

(a) The Owners of the Burdened Parcels on which the Access Easement Areas are located shall be responsible for the performance of all work associated with the maintenance, repair, replacement and snow removal of the Access Easement Areas, and any improvements made therein, as may be necessary for the safe and unimpeded use of the Access Easement Areas by the Owners of each Benefited Parcel (the “Access Easement Maintenance”). The removal of any accumulation of snow and/or ice in excess of one (1) inch from sidewalks located within an Access Easement Area is required within twenty-four (24) hours after the snow and/or ice has ceased to fall, gather or accumulate.

(b) The costs of such Access Easement Maintenance (the “Access Easement Costs”) shall be shared proportionately by the Owners of Lot 1, Lot 2, and Lot 3 as follows:

a) The Owner of Lot 2 shall reimburse the Owner of Lot 1 for 33.33% of the Access Easement Costs with respect to Lot 1;

- b) The Owner of Lot 3 shall reimburse the Owner of Lot 1 for 33.33% of the Access Easement Costs with respect to Lot 1; and
- c) The Owner of Lot 3 shall reimburse the Owner of Lot 2 for 50% of the Access Easement Costs with respect to Lot 2.

10. Sign Easement. Declarant, for itself and its successors and assigns, hereby grants and conveys, for the benefit of Lots 2 and 3, and over and across that portion of Lot 1 legally described on the attached Exhibit F, a perpetual, non-exclusive easement for the installation, repair and maintenance of a sign facing Howell Avenue and bearing the street address of each of Lot 2 and Lot 3 and any other directional elements as may be reasonably necessary to notify the general public of the location of buildings on or to be constructed on Lot 2 and Lot 3 (the “Sign Easement” and, together with the Utility Easements, the Driveway Easement and the Access Easements, the “Easements”).

11. No Build Covenant. The Owners of Lot 1, Lot 2, and Lot 3 hereby agree, for themselves and their respective successors and assigns, that the Lot 4 Utility Easement Area and the Lot 5 Utility Easement Area are hereby also designated as “No Build Areas” (collectively, the “No Build Areas”) and that no buildings or other structures shall be constructed, operated, or maintained in such No Build Areas.

12. Conditions and Restrictions. An Owner of a Burdened Parcel shall not (i) erect, construct, install or maintain (or permit to be erected, constructed, installed or maintained) any building, other structure, or obstruction of any kind in, on, under, over or upon an Easement Area or No Build Area; or (ii) change the grade of an Easement Area or No Build Area by more than 12 inches without the prior written consent and authorization of the Owner of the Benefited Parcel that benefits from the applicable Easement Area or No Build Area, which authorization may be granted or withheld in the sole and absolute discretion of the Owner of such Benefited Parcel. For avoidance of doubt, and notwithstanding anything herein to the contrary, the Owner of a Burdened Parcel may install decorative landscaping in a Utility Easement Area or a No Build Area without the prior approval of the Owner of the corresponding Benefited Parcel but such Owner of a Benefited Parcel’s restoration obligations under Section 15 hereof shall not require repair or replacement of any landscaping elements other grading, grass and turf.

13. Perpetual Easements. The term of each Easement granted hereunder shall commence on the Effective Date and shall continue indefinitely thereafter unless terminated by the Parties in writing. This Declaration and the rights granted herein shall burden the Burdened Parcels and benefit the Benefited Parcels and bind the present and future Owners thereof. In the event portions of a Parcel become conveyed to or owned by multiple parties, each shall be deemed to be the successor in title to the prior Owner for purposes of this Declaration and shall be bound by and entitled to the burdens and benefits herein established for the portion of such Parcel owned by such successor.

14. Parcel Owners’ Use of Easement Areas. The Utility Easement Areas, the Driveway Easement Area, the Access Easement Areas and the Sign Easement Area shall be referred to herein, collectively, as the “Easement Areas.” The Owners of each Burdened Parcel reserve the right to use the Easement Areas located on such Burdened Parcel for any lawful purpose that is

not inconsistent with, and that does not unreasonably interfere with, full exercise and enjoyment of the Easements located thereon by the Owners of the Benefited Parcels.

15. Restoration. In the event the use by the Owner of a Benefited Parcel, or any of its agents, guests, invitees, tenants or contractors, of an Easement Area hereunder results in any damage to a Burdened Parcel, the Owner of such Benefited Parcel, on its own behalf and on the behalf of any of its contractors, agents, guests, tenants or invitees will, at its sole cost and expense, restore the damaged Parcel to substantially the same condition that existed prior to such use. In the event an Owner fails to restore a damaged Parcel as set forth herein, and such failure continues after the Owner of the damaged Burdened Parcel provides the corresponding Benefited Parcel Owner with notice and ten (10) days to cure such failure, then the damaged Burdened Parcel Owner shall be entitled (but shall not be obligated) to perform such restoration and to recover the cost thereof from the Owner of such Benefited Parcel. The terms of this Section shall survive the expiration or earlier termination of this Declaration.

16. Maintenance and Repair of the Easement Areas. Except as provided in Section 9 or otherwise herein, the Owner of any Parcel on which an Easement Area or No Build Area exists shall be responsible for the maintenance of such Easement Area and / or No Build Area and shall keep the Easement Area in good condition and not in need of repair.

17. Encumbrances. The Owner of any Parcel benefitted by an Easement shall not permit anything to be done that will cause the Parcel on which a corresponding Easement Area is located to become encumbered by any mechanic's lien or similar lien, charge or claim. If any mechanic's lien or similar charge or claim is filed against any Parcel benefitted by an Easement due to the Owner of such benefitted Parcel's alleged request for labor or materials, such Owner shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge.

18. Indemnification. The Owner of a Parcel benefitted by an Easement (for purposes of this Section 18, the "Indemnitor") agrees to indemnify, defend, and hold the Owner of the Parcel on which the corresponding Easement is located, and its respective officers, partners, directors, employees, agents, tenants, licensees, invitees, successors and assigns (collectively, the "Indemnified Parties") harmless from and against any and all liability, loss, claims, damages, penalties, fines, costs and expenses, including, without limitation, reasonable attorneys' fees, and for any and all injury to persons or damage to property, that arise from or out of a breach of respective covenants and obligations hereunder and/or Indemnitor's negligence or willful acts or omissions, except to the extent caused by the negligent or willful acts or omissions of the Indemnified Parties.

19. Transferability and Assignment. The Easements and any other rights conferred by this Declaration, are intended to and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the Owners and their respective grantees, heirs, successors and assigns. Each Owner has the right to assign its rights and obligations under this Declaration to any related-party or third-party acquiring the respective Owner's Parcel without any other Owner's consent and without releasing such Owner from the provisions hereof. Such transferring Owner must notify the other Owners in writing of any assignment of such Owner's rights and obligations under this Declaration to any third-party acquiring the respective Owner's Parcel.

20. Miscellaneous.

(a) No Agency. Nothing in this Declaration shall be deemed or construed by either Party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the Parties.

(b) No Rights in Public; No Implied Easements. Nothing in this Declaration may be construed as creating any rights in the general public or as dedicating for public use any portion of the Easements or the Parcels.

(c) Applicable Law. This Declaration shall be interpreted, construed and enforced and the applicable rights of the Parties hereto governed in accordance with the laws of the State of Minnesota.

(d) Amendments. This Declaration may be modified or amended only by a written instrument executed by all Owners, or their respective successors and assigns.

(e) Notices. With respect to any notices required to be given under the terms of this Declaration, such notices shall be deemed given and effective (i) three calendar days after the date they are deposited in the United States mail, postage prepaid, return-receipt requested, addressed to the Parties at the following respective addresses; or (ii) the date of actual delivery by recognized national overnight delivery service such as Federal Express, UPS or Express Mail, addressed to the Parties at the following respective addresses; or (iii) the date of actual physical delivery of notice to a Party addressed to the Parties at the following respective addresses:

If to Declarant:      1905 Iglehart LLC  
                                 901 Burke Avenue West  
                                 Roseville, MN 55113

With copy to:         Winthrop & Weinstine, P.A.  
                                 225 South Sixth Street, Suite 3500  
                                 Minneapolis, Minnesota 55402  
                                 Attention: Erin Mathern

Any Party may change the address or addresses to which notice is to be sent by giving written notice of such change to the other Party in the manner provided herein.

**[SIGNATURE PAGE FOLLOWS]**



**EXHIBIT A**

Lot 1, Lot 2, Lot 3, Lot 4, and Lot 5, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.



**EXHIBIT B**

Depiction of Parcels and Easements

See Attached.

## **EXHIBIT C**

### Utility Easement Areas and No Build Areas

#### Lot 1 Utility Easement Area (benefits Lot 1):

An easement over, under and across the west 20.00 feet of Lot 4, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

#### Lot 2 Utility Easement Area (benefits Lot 2):

An easement over, under and across the west 20.00 feet of Lot 5, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

#### Lot 3 Utility Easement Area (benefits Lot 3):

An easement over, under and across the east 20.00 feet of Lot 5, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

#### Lot 4 Utility Easement Area and No Build Area (benefits Lot 4):

An easement over, under and across the east 2.00 feet of Lot 1, Block 1, and the west 8.00 feet of Lot 2, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

#### Lot 5 Utility Easement Area and No Build Area (benefits Lot 5):

An easement over, under and across the east 2.00 feet of Lot 2, Block 1, and the west 8.00 feet of Lot 3, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

**EXHIBIT D**

Driveway Easement Area (benefits Lot 4)

An easement over and across the west 20.00 feet of Lot 5, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

## **EXHIBIT E**

### **Pedestrian Access Easement Areas**

Lot 1 Access Easement Area (benefits Lots 2 and 3):

An easement over and across the south 5.00 feet of Lot 1, Block I, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

Lot 2 Access Easement Area (benefits Lot 3):

An easement over and across the south 5.00 feet of Lot 2, Block I, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.

**EXHIBIT F**

Sign Easement

An easement over and across the north 3.00 feet of the south 8.00 feet of the west 3.00 feet of Lot 1, Block 1, AUGUSTUS CORNER, according to the recorded plat thereof, Ramsey County, Minnesota.